

CHAPTER 5

Rules and Regulations of the Behavioral Health Division Mental Health and Substance Abuse Services

Complaints

Section 1. Authority. This Chapter is promulgated by the Wyoming Department of Health pursuant to W.S. §§ 7-13-1601 through 1615; W.S. § 9-2-102; W.S. § 9-2-2701; W.S. §§ 35-1-611 through 627; and the Wyoming Administrative Procedure Act at W.S. §§ 16-3-101 through 115.

Section 2. Purpose and Applicability. These rules have been adopted to provide complaint and investigation processes of providers of behavioral health treatment services certified by the Division.

Section 3. Filing Complaints.

(a) If a client is not satisfied with the resolution of a complaint filed with a certified provider through the provider's grievance procedure, a complaint may be filed with the Division.

(b) A complaint regarding a certified provider may be presented by the complainant to the substance use and mental health ombudsman program or the Division.

(c) If the nature of the complaint is not related to certification or contracting requirements, the Division shall refer the complainant to the appropriate authority such as Medicaid, the Wyoming Mental Health Professions Licensing Board, or an ombudsman program.

Section 4. Complaints Filed with the Division.

(a) Complaints filed with the Division shall be in writing. The complaint shall be filed within one year of the alleged violation and shall provide the following information:

- (i) The name, address and telephone number of the complaining party;
- (ii) The party, person, or agency the complaint is against; and
- (iii) A clear and complete statement of the alleged violation of the law, order, rule or standard, together with the facts which give the Division a clear and full understanding of the nature of the alleged violation.
- (iv) The Division shall establish policies and procedures to ensure that complaints are properly evaluated, documented, acknowledged and handled in a timely and appropriate manner, to include notification by the Division to the complainant and the provider in writing within ten (10) business days of the receipt of a complaint.

(b) The allegations of the complaint shall determine the tasks required and the nature and scope of any investigation that may occur. The order and manner in which information is gathered depends upon the type of complaint that is filed.

Section 5. Investigations.

(a) The purpose of an investigation is to resolve a complaint and/or alleged violation. The Administrator, upon receipt of a complaint or substantive information alleging detriment to the health, safety or welfare of clients, fraud, and/or ethical misconduct, may conduct an investigation of a provider certified by the Division.

(b) Upon initiation of an investigation, the Division shall provide a copy or summary of the complaint and supporting materials to the executive director and chair of the governing board, if applicable, of the provider against which the complaint or violation is lodged.

(c) The executive director of the provider against whom the complaint is lodged shall file a response to the complaint or alleged violation with the Division no later than twenty (20) business days after receipt of the notice from the Division of the alleged complaint or violation. For good cause shown, the Division may extend the time to respond to the complaint.

(d) If the Division determines the response to the complaint or alleged violation provided by the provider does not resolve the complaint, the Division may continue the investigation to include on-site inspection, collection of all available pertinent information concerning the operation of the program as it relates to the complaint or alleged violation being investigated, consultation with the executive director, governing board, if applicable, and staff of the program, the complainant and other pertinent and reliable sources of information about a provider.

(e) A provider's failure to cooperate with an investigation under subsection (c) or (d) may result in further sanctions as the Division deems appropriate. This may include, but is not limited to, adverse inferences related to any materials denied to the Division, the immediate suspension of contract payments, or decertification.

(f) A preliminary report of the status of the investigation shall be issued by the Division to the complainant and provider within forty-five (45) business days of initiating the investigation. If the Division, in its discretion, extends the duration of the investigation beyond forty-five (45) business days, it will provide an update to the complainant and the provider's executive director and chair of the governing board every thirty (30) business days. This update is intended only to inform the parties on the status of the investigation; failure to provide this update every thirty (30) business days shall have no impact on the validity of the investigation and shall not be grounds for dismissal of the investigation.

(g) A final written report and disposition of the investigation shall be issued within ninety (90) business days of the closure of the investigation. The report shall be

sent to the provider's executive director and chair of the governing board, if applicable, and shall include findings, corrective actions required, if any, and time frames for completion of corrective actions.

(h) The Division shall provide a summary of the results and disposition of the investigation to the complainant within ninety (90) business days of the closure of the investigation.

(i) Providers not completing corrective actions as required in the final investigation report may be subject to revocation of certification as provided in Chapter 2, Section 8(b) and may be subject to contract termination, if applicable.

Section 6. Quality Improvement Plans.

(a) The provider shall submit to the Division a quality improvement plan for each corrective action required in the final written report of an investigation.

(i) The quality improvement plan shall include action steps, responsible parties, and dates of completion for each corrective action.

(A) If corrective actions relate to health, safety, welfare or rights of clients served, the provider shall submit the quality improvement plan to the Division within fifteen (15) business days of receipt of the written report from the Division.

(B) For all other corrective actions, the provider shall submit the quality improvement plan to the Division within thirty (30) business days of receipt of the written report from the Division.

(ii) If the quality improvement plan is not received by the Division within the required time frame, the Division shall notify the provider in writing that the Division may revoke the provider's certification pursuant to Chapter 2, Section 8(b).

(b) The Division shall notify the provider in writing of the approval or disapproval of the provider's quality improvement plan within thirty (30) business days after receipt of the plan.

(i) If the quality improvement plan is not approved, the provider shall receive notification in writing of the reasons for the disapproval and will be required to submit a revised plan within ten (10) business days of receipt of the written disapproval from the Division.

(ii) If the revised quality improvement plan is not approved, the provider shall have fifteen (15) business days from notification of the disapproval to submit an acceptable plan or the Division may revoke the provider's certification pursuant to Chapter 2, Section 8(b).

(iii) In the event the provider contests the actions of the Division in revoking certification, the provider may request a hearing pursuant to the procedures in Chapter 2, Section 8(f).

(c) The Division shall complete appropriate follow up monitoring to assure that the actions identified in the provider's quality improvement plan have been completed within the specified time frame. A provider's failure to complete its quality improvement plan within the specified time frame may result in decertification.

Section 7. Severability. If any portion of this Chapter is found to be invalid or unenforceable, the remainder shall continue in full force and effect.